IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P.PD.No.1440 of 2006
and
M.P.No.1 of 2006

Dhanapal ... Petitioner

Versus

Matilda ...Respondent

Civil Revision Petition filed under Section 115 of the Civil Proceedure Code against the judgment and decreetal order of the Court of the District Munsif, Arni in O.E.A.No.347 of 2006 in O.E.P.No.81 of 2006 in O.S.No.158 of 2005 dated 14.07.2006.

For Petitioner : Mr.V.Lakshmi Narayanan

O R D E R

The Civil Revision Petition is directed against the judgment dated 14.07.2006 in O.E.A.No.347 of 2006 in O.E.P.No.81 of 2006 in O.S.No.158 of 2005 on the file of the District Munsif Court, Arni.

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2. The Judgment Debtor has filed O.E.A.No.347 of 2006 in O.E.P.No.81 of 2006 in O.S.No.158 of 2005 to set aside the ex-parte order passed in E.P.No.81 of 2006 under Order 21 Rule 106 C.P.C.

3. After issuing notice to the respondent and on hearing of both sides, the learned District Munsif dismissed the application without any valid reasons. The reasons given in paragraph 6 of the said order dated 14.07.2006, which reads as follows:

> *"Notice of hearing given. Counter filed. Both side arguments heard. Documents perused. The petition is allowed."*

Challenging the said order, the decree holder /plaintiff has filed this petition.

4. The Court below must have given the reason while dealing with the said application, but it is absolutely lacking in this case. Since the learned Judge has passed the order without giving any reasons for setting aside the ex-parte order, the order dated 14.07.2006 passed by the learned Judge is liable to be set aside. The learned Judge has not adverted into the facts and merely has passed a non-speaking order without applying mind. In a catena of decisions of this Court and the

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Hon' ble Supreme Court, it has been categorically held that the Courts must appreciate the facts to the case in proper perspective and thereafter pass a reasoned order.

5. In the result, a) the Civil Revision Petition is allowed by setting aside the order in O.E.A.No.347 of 2006 in O.E.P.No.81 of 2006 in O.S.No.158 of 2005 Puducherry b) The matter is remanded back to the Executing Court, namely, District Munsif, Arani to pass appropriate order on merits and in accordance with law, in O.E.A.No.347 of 2006 in O.E.P.No.81 of 2006 in O.S.No.158 of 2005 by issuing notice to both the parties. C) the learned Judge, Arani is directed to dispose of the said O.E.A. within a period of two months from the date of receipt of copy of the order.

6. With the above direction, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet : Yes/No
Speaking order / non-speaking order

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To

The District Munsif, Arni

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